

**REMARKS**

Claims 1-32 are all the claims pending in the application. Claims 1-32 have been amended to correct their form to overcome the rejections under 35 U.S.C. § 112, ¶ 2.

**I. Formalities**

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority and confirming receipt of the certified copy of the priority document.

Applicant thanks the Examiner for indicating the acceptance of the drawings filed July 25, 2006.

In addition, Applicant thanks the Examiner for initialing and returning a copy of the SB/08 submitted with the Information Disclosure filed on July 25, 2006.

**II. Claim Rejections - 35 U.S.C. § 112, ¶ 2**

Applicant respectfully requests the Examiner withdraw the rejection to the claims under 35 U.S.C. § 112, ¶ 2 in view of the self-explanatory amendments presented above.

**III. Claim Rejections - 35 U.S.C. § 102**

Claims 1, 10, 11, 18 and 20 are rejected under 35 U.S.C. § 102(c) as allegedly being anticipated by Walton (US 2003/0013451). Applicant respectfully traverses the rejection with regard to the claims, as now amended.

Claim 1 recites, *inter alia*,

A method for allocating communication codes to channels set up in respect of mobile terminals communicating in a cell of a radiocommunication system, in which the cell is served by a **fixed station** having means for adjusting **send/receive parameters defining a respective antenna pattern** in respect of each mobile terminal in the cell, in which the allocated communication codes form part of a set of codes, a plurality of which are mutually orthogonal, said method comprising:

. . .

wherein the allocation to the channel of a code that is nonorthogonal to at least one code of the set that is already allocated to another channel set up in respect of a second mobile terminal in the cell is conditioned on at least a comparison between the send/receive parameters determined in respect of the first and second terminals

In the Office Action, the Examiner asserted Paragraphs [0205], [0012] and [0028] teach all of the limitations of the claims. These sections teach, *inter alia*, that channels may be assigned based on the terminals' tolerance levels. Applicant respectfully submits that this does not teach that "the allocation to the channel of a code that is nonorthogonal to at least one code of the set that is already allocated to another channel set up in respect of a second mobile terminal in the cell is conditioned on at least a comparison between the send/receive parameters determined in respect of the first and second terminals" wherein the "send/receive parameters defin[e] a respective antenna pattern in respect of each mobile terminal in the cell" and wherein "the cell is served by a fixed station having means for adjusting send/receive parameters." The only feature of the cited paragraphs that comes close to the claimed "send/receive parameters" is the concept of assigning channels based on terminals' propagation conditions. However, this clearly cannot teach the claimed send/receive parameters as Applicant respectfully submits the propagation conditions are not taught as adjustable by any means comprised by the fixed station. Further, Applicant respectfully submits that propagation conditions are not adjustable. Applicant further submits that there is no other teaching or suggestion in Walton that teaches or suggests these requirements of the claims.

Accordingly, Applicant respectfully submits that claim 1 is not anticipated under 35 U.S.C. § 102(e) by Walton, because the reference does not disclose all of the features and limitations of the claim. Accordingly, Applicant respectfully requests that the Examiner

withdraw the rejection of claim 1, and claims 10 and 11 at least by virtue of their dependency from claim 1.

Further, Applicant submits that independent claims 18 and 20 are also patentable over Walton for at least the same or similar reasons. As such, Applicant respectfully requests the Examiner withdraw the rejections of independent claims 18 and 20.

#### **IV. Allowable Claims**

Claims 2-17, 19, and 21-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form and to overcome the rejection under 35 U.S.C. § 112, ¶ 2. Applicant thanks the Examiner for indicating that claims 2-17, 19, and 21-32 are in allowable if so rewritten. Applicant has amended claims 2-17, 19, and 21-32 to overcome the rejections under 35 U.S.C. § 112, ¶ 2 but Applicant respectfully holds the rewriting of these claims in abeyance as Applicant believes the above response will eliminate the need to rewrite the claims in independent form.

#### **V. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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